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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/750,475

12/28/2000

Lynh Nguyen

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EXAMINER

CHANKONG, DOHM

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/750,475

Applicant(s)

NGUYEN, LYNH

Examiner

Dohm Chankong

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

- 1> This action is in response to Applicant's remarks, filed 6.5.2006. Claims 1-22 are presented for further examination.
- 2> In light of Applicant's remarks, the rejections of claims 1-19 are withdrawn. This is a non-final rejection.

### *Response to Arguments*

- 3> Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 4> Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Polizzi et al (US 2002/0023158, "Polizzi," hereafter) in view of Guenthner et al, U.S Patent No. 5,134,588 ["Guenthner"].

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5> Regarding claims 1, 8 and 15, Polizzi discloses a method, apparatus and program product (hereinafter a "system") comprising:

providing at least one interface module to interface with a remote application (105, fig.1);

providing port module to interface between interface module and data source (agent, 130, fig. 1);

providing a connection manager to facilitate between the interface module and port module (service broker 125 fig. 1; ¶ 21).

Polizzi does not explicitly disclose detecting unavailability and availability of a data source in response to a request and reconnecting to the data source when it becomes available.

However, a technique or concept of resource availability detection is not new, it has been around long prior to applicant's invention was made. It has been utilized to improve efficiency of network data communications. For instance, Guenthner discloses detecting unavailability of a data source in response to a request for the data source [column 9 «lines 18-20»], dynamically detecting availability of the data source and reconnecting to the data source in response to a subsequent request [column 9 «lines 16-35»].

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to adapt the known technique as suggested by Guenthner with Polizzi for a client to detect the unavailability of a server but to be able to dynamically reconnect to the server when it is available again. One would have been motivated to provide such a

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combination to enhance a client's experience by ensuring availability of data sources [column 1 «lines 65-67»].

6> Regarding claims 2-5, 9-12 and 16-17, Polizzi-Guenthner discloses, detecting unavailability is accomplish by software module executed in a computer. Polizzi-Guenthner does not explicitly call its software module as being specified by the claims language. However, applying the detection capability to any software module regardless of its nomenclature does not produce unexpected result and is an obvious variation of design choice. That is, having either the port module or the connection manager perform the dynamic detection function leads to the same expected results which is evidence of obviousness. MPEP §716.02(II). Conversely, Applicant has not identified any unexpected result that would occur if the detection function is performed by the connection manager or the port module. MPEP §716.02.

7> Regarding claims 6, 7, 13, 14, 18 and 19, Polizzi-Guenthner discloses, re-establishing a connection between the port module and the data source independently from initialization of the connection manager, i.e., without re-initializing the connection manager [see Guenthner, Figure 8 | column 9 «lines 32-35» : reconnecting independent of the nameserver].

8> Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Polizzi et al (US 2002/0023158, "Polizzi," hereafter) in view of Rizvi et al, U.S Patent No. 6,199,110.

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9> Regarding claims 1, 8 and 15, Polizzi discloses a method, apparatus and program product (hereinafter a "system") comprising:

providing at least one interface module to interface with a remote application (105, fig.1);

providing port module to interface between interface module and data source (agent, 130, fig. 1);

providing a connection manager to facilitate between the interface module and port module (service broker 125 fig. 1; ¶ 21).

Polizzi does not explicitly disclose detecting unavailability and availability of a data source in response to a request and reconnecting to the data source when it becomes available.

However, a technique or concept of resource availability detection is not new, it has been around long prior to applicant's invention was made. It has been utilized to improve efficiency of network data communications. For instance, in the same field of endeavor, Rizvi expressly discloses detecting unavailability of a data source in response to a request for the data source [column 4 «lines 52-58»], dynamically detecting availability of the data source and reconnecting to the data source in response to a subsequent request [column 5 «lines 29-37»].

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to adapt the known technique as suggested by Rizvi with Polizzi to be able to dynamically determine the availability of data sources and to subsequently reconnect to the data source when it has available. Rizvi expressly discloses that such detection occurs

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in response to the user's request to the data source; such functionality allows a user to be made aware of the state of the data source and to try to connect again later when the data source is available. One would have been motivated to provide such a motivation to provide Polizzi a means to handle situations when the data source fails but would allow users to reconnect [see Rizvi, column 5 «lines 35-37»].

10> As to claims 2-5, 9-12 and 16-17 see rejections above.

11> Regarding claims 6, 7, 13, 14, 18 and 19, Polizzi-Rizvi discloses, re-establishing a connection between the port module and the data source independently from initialization of the connection manager, i.e., without re-initializing the connection manager [see Rizvi, column 5 «lines 35-49» : reconnecting to the database without having to reinitialize the server].

12> Claims 1-5, 8-12 and 15-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Polizzi et al (US 2002/0023158, "Polizzi," hereafter) in view of Mastors et al, U.S Patent No. 5,826,021 ["Mastors"].

13> Regarding claims 1, 8 and 15, Polizzi discloses a method, apparatus and program product (hereinafter a "system") comprising:

providing at least one interface module to interface with a remote application (105; fig.1);

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providing port module to interface between interface module and data source (agent, 130, fig. 1);

providing a connection manager to facilitate between the interface module and port module (service broker 125 fig. 1; ¶ 21).

Polizzi does not explicitly disclose detecting unavailability and availability of a data source in response to a request and reconnecting to the data source when it becomes available.

However, a technique or concept of resource availability detection is not new, it has been around long prior to applicant's invention was made. It has been utilized to improve efficiency of network data communications. For instance, Mastors discloses detecting unavailability of a data source in response to a request for the data source [column 6 «lines 18-26»], dynamically detecting availability of the data source and reconnecting to the data source in response to a subsequent request [column 6 «line 64» to column 7 «line 4»].

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to adapt the known technique as suggested by Mastors with Polizzi to be able to suspend operations when a data source is unavailable and then to continue operations when the availability of data source is detected and to subsequently reconnect to the data source when it has available.

14> As to claims 2-5, 9-12 and 16-17 see rejections above.



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15> Claims 20-22 are rejected under 35 U.S.C § 103(a) as being unpatentable over Polizzi and Guenthner, in view of Brendel et al, U.S Patent No. 5,774,660 ["Brendel"].

16> As to claims 20-22, Polizzi does not expressly disclose connecting directly the interface module and the port module for communicating independently from the connection manager in subsequent communications.

17> Brendel discloses a system whereby a load balancer is responsible for facilitating between a user and a remote application such as a server [Figure 6]. After the connection has been facilitated, the user and the remote application may connect directly with one another allowing subsequent communications from the server to be sent to the user such that the load balancer is bypassed [column 9 «lines 18-21»].

It would have been obvious to one ordinary skill in the art to modify Polizzi's system to incorporate Brendel's teachings; that is, to enable direct communications between Polizzi's network interface and agents, bypassing the service broker, to reduce the amount of bandwidth that must flow through the broker [see Brendel, column 9 «lines 60-64»]. Such a modification in Polizzi's system would provide substantial improvement in Polizzi's service broker, as evidenced by the reduction in workload of Brendel's load balancer. Polizzi's service broker and Brendel's load balancer are analogous as they both responsible for establishing connections between user and remote applications [see Polizzi, 0021 & Brendel, column 6 «lines 25-26»].

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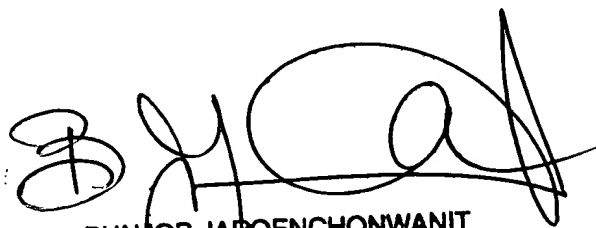
*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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